

SPECIAL BOARD OF ADJUSTMENT NO. 279

BROTHERHOOD OF MAINTENANCE OF WAY EMPLOYES
versus
MISSOURI PACIFIC RAILROAD COMPANY

STATEMENT
OF CLAIM:

Claim of the Committee that:

1. Carrier violated the effective Agreement especially Rule 12, when it dismissed from its service, effective July 7, 1971, Trackman L. N. Spikes, subsequent to formal investigation held on June 25, 1971.
2. Carrier shall now reinstate Trackman L. N. Spikes to his position with seniority, pass and vacation rights unimpaired, and time for 8 hours pay at trackman's rate for each regular work day and any holidays falling within the period until reinstated plus all fringe benefits to which he would be entitled, and that such days he has lost will be accredited to necessary qualifying days for vacation each year, beginning May 28, 1971, plus 6% per annum on the monetary allowance accruing from the initial claim date until paid and reinstated as requested.

FINDINGS:

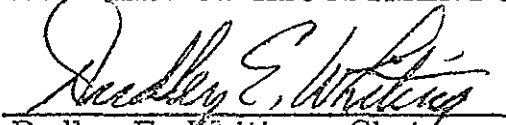
The claimant falsified his application for employment by misstating his employment history and denying that he had ever been convicted of a violation of the law other than a minor traffic offense. When the Carrier learned the true facts, the claimant was given notice of investigation thereon and thereafter dismissed him from service.

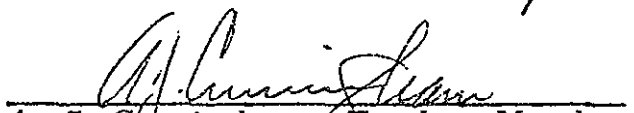
The Third Division of the N. R. A. B. has consistently held that an employee who falsifies his employment application is subject to discharge, regardless of the time elapsed before discovery thereof. Such an established principle of adjudication may not be cast aside by referees in determining individual cases. If some change is desired in the philosophy underlying the rule, it should be achieved by agreement of the parties - not by grievance adjudication.

AWARD 120
Docket No. 120

AWARD: Claim denied.

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Dudley E. Whiting - Chairman


A. J. Cunningham - Employee Member


G. W. Johnson - Carrier Member

December 12, 1974

File: 247-4862